

1 **COMP**

E-filed

8-21-12

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10 **UNITED STATES BANKRUPTCY COURT**

11 **DISTRICT OF NEVADA**

12 In Re: MARIO FERNANDEZ TRABADO
13 dba CLARK COUNTY PUBLIC AUCTION,

CASE NO. 12-16152-MKN

14 Debtor.

CHAPTER 7

15 _____
16 BENSON HOPP,

ADVERSARY NO.

17 Plaintiff,

18 vs.

19 MARIO FERNANDEZ TRABADO dba
20 CLARK COUNTY PUBLIC AUCTION,

21 Defendant.
22 _____

23 **COMPLAINT TO DETERMINE DISCHARGEABILITY OF DEBT**

24 Plaintiff, Benson Hopp ("Hopp"), by and through his counsel, hereby represents, as follows:

25 1. The Court has jurisdiction to hear this Complaint pursuant to 28 U.S.C. §§157(a),
26 (b)(1), (b)(2)(I) (core proceeding), 1334(b) and 11 U.S.C. §523.

27 2. BENSON HOPP, is and was at all times relevant hereto, a resident of California.

28 3. MARIO FERNANDEZ TRABADO dba CLARK COUNTY PUBLIC AUCTION
("Defendant") is an individual, doing business as an auction company in Clark County, Nevada.

1 4. On July 26, 2009, Defendant sold various items to Plaintiff which were represented
2 to be Michael Jackson memorabilia.

3 5. Plaintiff paid Defendant the total sum of \$23,293.20 for the items.

4 6. Plaintiff contracted with Heritage Auction, Inc. dba Heritage Auction Galleries, in
5 Texas to sell the items.

6 7. After Heritage listed the items for sale, it was contacted by certain parties claiming
7 to be the rightful owners of the items.

8 8. Heritage filed an interpleader complaint in Texas, naming all parties asserting an
9 interest in the property.

10 9. The "rightful owners" of the items had rented a storage unit in Las Vegas, Nevada
11 and claimed that the items had been stolen from the unit and sold without their knowledge or
12 consent. 1

13 10. The Texas court determined that those parties were in fact the rightful owners of the
14 property and they were awarded possession of the property.

15 11. Heritage's claims against Plaintiff were resolved pursuant to a Stipulated Judgment
16 whereby Plaintiff agreed to pay Heritage the total sum of \$10,725.00.

17 12. Plaintiff filed a Third Party Complaint against the Defendant in the Texas matter
18 alleging causes of action of Breach of Contract, Breach of Warranty of Title, and Deceptive Trade
19 Practices.

20 13. Defendant did not appear in the Texas action and default judgment was entered
21 against him on November 30, 2011 in the principal amount of \$187,980.00, plus prejudgment
22 interest, attorney fees, costs and post judgment interest.

23 14. Plaintiff domesticated the Texas Judgment in Nevada and began executing upon it.

24 15. Defendant filed a voluntary Chapter 7 bankruptcy on May 23, 2012.

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FIRST COUNT

16. Paragraphs 1 through 15 are hereby repeated and incorporated as if fully set forth herein.

17. Defendant represented to the Plaintiff that he was the rightful owner of the items of Jackson memorabilia which he sold to Plaintiff and further represented that he had good title to such items and the ability to transfer such good title to the Plaintiff.

18. Upon information and belief Defendant's representations to Plaintiff were false.

19. Plaintiff reasonably relied upon Defendant's representations and paid him money as a result of such representations.

20. Pursuant to 11 U.S.C. §523(a)(2)(A) the debt represented by the Note is non-dischargeable as the money Plaintiff paid to Defendant would not have been paid to him absent his misrepresentations.

WHEREFORE, Plaintiff, Benson Hopp prays this Honorable Court for judgment determining that the judgment Plaintiff obtained against the Defendant in Texas is non-dischargeable, and/or any other such relief as the Court may deem appropriate.

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DATED: 8-21-12



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